IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE TWENTY EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO : 286 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 18/11/2004 in WP NO : 12658 OF 2004 on the file of the High Court.)

Between:

M/s.Srujana Degree College, Pillalamarry X Roads, Mettugadda, Mahabubnagar-509 001, rep., by its Correspondent, Sri Shanker Rao, s/o Hanumantha Rao, R/o Mahabubnagar.

..... APPELLANT

AND

1 The Recovery Officer, O/o Asst.P.F.Commissioner, Barkatpura, Hyderabad-27.
2 The Assistant P.F.Commissioner, Barkatpura, Hyderabad-27.
3 Enforcement Officer, O/o the Regional P.F.Commissioner, Barkatpura, Hyderabad-27.
4 The Employees' Provident Fund Appellate Tribunal, Skylark Marg, 60, Nehru Place, New Delhi.

.....RESPONDENT(S)

Counsel for the Appellant:MR.N.VENKATARAMA REDDY

Counsel for the Respondent Nos.1 to 3: MR.R.N.REDDY

Counsel for the Respondent No.4: --

The Court at the admission stage made the following Oral Judgment: (per Sri Devinder Gupta, CJ)

For the period from December, 1997 to November, 2000, an order was passed under Section 7(A) of the provisions of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for brevity "the Act") against the appellant against which an appeal was filed. Since there was no appellate authority, writ petition was filed in this Court. Recovery proceedings were thus directed to be stayed subject to the appellant-petitioner depositing 50% of the assessed amount and appeal was directed to be heard by the Authority. Now, from December, 2000 to July, 2003, fresh order of assessment has been passed and recovery is sought to be effected. Appeal has been filed. Instead of approaching the appellate authority for stay, appellant has approached this Court and filed Writ petition. Learned single Judge of this Court directed that on deposit of 50% of the amount within six weeks, no coercive steps will be taken for recovery of the amount and on the appellate authority being appointed, the appellate authority will pass appropriate orders.

Learned counsel for the appellant submits that till the earlier appeal is decided, there cannot be any fresh assessment and recovery. Therefore, the amount should be stayed in toto. This submission is wholly erroneous in law, inasmuch as, there is no provision for fresh order being passed when appeal against earlier order is pending. In case, appellant is interested in getting stay of the proceedings before the Tribunal for subsequent periods, it will be for the appellant to approach the appellate authority for appropriate orders. The appellate authority is not functional. Therefore, there is nothing wrong in the order of the learned single judge. However, the period allowed to the appellant-petitioner has since expired, therefore, we direct that in the event of the appellant-petitioner depositing 50% of the demanded amount within a period of six weeks from today, no coercive steps will be taken and the appellate authority will proceed to hear and dispose of the appeal without demanding any further amount from the appellant/petitioner.

The writ appeal is accordingly dismissed. No costs.

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DEVINDER GUPTA,CJ

DATE: 28th February, 2005

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B. SESHASAYANA REDDY,J

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To

1 The Recovery Officer, O/o Asst.P.F.Commissioner, Barkatpura, Hyderabad-27.
2 The Assistant P.F.Commissioner, Barkatpura, Hyderabad-27.
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5 Two C.D. copies